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[*Hoffman v. Fuel Economy Contracting*](#), 87-ERA-33 (Sec'y Apr. 20, 1990)

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DATE: April 20, 1990
CASE NO. 87-ERA-33

IN THE MATTER OF GARY HOFFMAN,
COMPLAINANT,

v.

FUEL ECONOMY CONTRACTING AND
OMAHA PUBLIC POWER DISTRICT,
RESPONDENTS.

BEFORE: THE SECRETARY OF LABOR

ORDER APPROVING SETTLEMENT AND DISMISSING CASE

This case arises under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1982), and is before me for review of a Settlement Agreement entered into by the parties.

On February 15, 1990, I issued an Order to Show Cause. As I explained in that order:

Paragraph 3 of the settlement prohibits Complainant from "provid[ing] any documents received by and through the litigation process in this case, or any information describing or analyzing the information to the Nuclear Regulatory Commission ("NRC") [or] to any other person, and will not take any action to do anything to suggest or otherwise induce the NRC or any other person, to take any action to review the information received by and through this case [Complainant] will [not] take part in or assist in any action, claim, or proceeding on any alleged violation, claim or event testified to by [Complainant] and others during the course of this proceeding" Paragraph 4 provides that "[Complainant] . . . will not voluntarily appear to or for the NRC or any other person as a witness in any proceeding"

Slip op. at 2.

Accordingly, I found paragraphs 3 and 4 of the parties' Settlement Agreement (Settlement) void as against public policy to the extent that those paragraphs would restrict Complainant from communicating to federal or state enforcement authorities concerning alleged violations of the ERA or other laws. The Order to Show Cause gave Respondents 30 days to show cause why paragraphs 3 and 4 should not be severed and the remainder of the Settlement Agreement approved and this case dismissed with prejudice.

Respondents have not filed any response to the Order to Show Cause. Accordingly, paragraphs 3 and 4 of the settlement are severed to the extent that they would restrict Complainant from communicating to federal or state enforcement authorities concerning alleged violations of the ERA or other laws. I find the remainder of the settlement to be fair, adequate and reasonable and it is approved as provided in the Order to Show Cause. This case is dismissed with prejudice. Settlement Agreement, paragraph 5.

SO ORDERED.

ELIZABETH DOLE
Secretary of Labor

Washington, D.C.